

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

YESENIA GUITRON and JUDI KLOSEK,

No. C 10-3461 CW (MEJ)

Plaintiffs,

**DISCOVERY ORDER**

v.

**Re: Docket No. 122**

WELLS FARGO BANK, N.A., et al.,

Defendants.

Pending before the Court is the parties' joint discovery dispute letter filed on January 9, 2012. Dkt. No. 122. In the joint letter, Defendants Wells Fargo and Pam Rubio seek to compel the deposition of Dreydy Metelin pursuant to Federal Rule of Civil Procedure 16(b).

Rule 16(b) provides that a case management schedule can be modified upon a showing of good cause and by leave of the district judge. The Ninth Circuit has stated that the "good cause" standard primarily considers the diligence of the party seeking the amendment. The district court may modify the pretrial schedule 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.1992) (quoting Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)). "Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." *Id.* (citing *Gestetner Corp. v. Case Equip. Co.*, 108 F.R.D. 138, 141 (D. Me.1985)).

Here, because Defendants did not receive Metelin's declaration until the last day of discovery, even though Metelin signed the declaration 16 days earlier, the Court finds good cause exists pursuant to Rule 16(b) to modify the case management schedule and hereby GRANTS Defendants' request to depose Dreydy Metelin.

**IT IS SO ORDERED.**

Dated: January 18, 2012

  
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Maria-Elena James  
Chief United States Magistrate Judge